

104TH CONGRESS
1ST SESSION

H. R. 2391

To amend the Fair Labor Standards Act of 1938 to provide compensatory time for all employees.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 1995

Mr. BALLENGER introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

A BILL

To amend the Fair Labor Standards Act of 1938 to provide compensatory time for all employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Compensatory Time
5 for All Workers Act of 1995”.

6 **SEC. 2. COMPENSATORY TIME.**

7 Section 7(o) of the Fair Labor Standards Act of 1938
8 (29 U.S.C. 207(o)) is amended to read as follows:

9 “(o)(1) An employee may receive, in accordance with
10 this subsection and in lieu of monetary overtime com-

1 pensation, compensatory time off at a rate not less than
2 1½ hours for each hour of employment for which overtime
3 compensation is required by this section.

4 “(2) An employer may provide compensatory time
5 under paragraph (1) only pursuant to—

6 “(A) applicable provisions of a collective bar-
7 gaining agreement, memorandum of understanding,
8 or any other agreement between the employer and
9 representative of such employees; or

10 “(B) in the case of employees not covered by
11 subparagraph (A), an agreement or understanding
12 arrived at between the employer and employee before
13 the performance of the work.

14 “(3) An employee, who is not an employee of a public
15 agency, may accrue not more than 240 hours of compen-
16 satory time. Not later than January 31 of each calendar
17 year, the employee’s employer shall provide monetary com-
18 pensation for any compensatory time off accrued during
19 the preceding calendar year which was not used prior to
20 December 31 of the preceding year at a rate not less than
21 1½ times the regular rate earned by the employee at the
22 time the employee receives such payment. An employer
23 may designate and communicate to the employer’s employ-
24 ees a 12-month period other than the calendar year, in

1 which case such compensation shall be provided not later
2 than 31 days after the end of such 12-month period.

3 “(4) If the work of an employee of a public agency
4 for which compensatory time may be provided included
5 work in a public safety activity, an emergency response
6 activity, or a seasonal activity, the employee engaged in
7 such work may accrue not more than 480 hours of com-
8 pensatory time for hours worked after April 15, 1986. If
9 such work was any other work, the employee engaged in
10 such work may accrue not more than 240 hours of com-
11 pensatory time for hours worked after April 15, 1986. Any
12 such employee who, after April 15, 1986, has accrued 480
13 or 240 hours, as the case may be, of compensatory time
14 off shall, for additional overtime hours of work, be paid
15 overtime compensation.

16 “(5) An employee who has accrued compensatory
17 time off authorized to be provided under paragraph (1)
18 shall, upon termination of employment, be paid for the un-
19 used compensatory time at a rate of compensation not less
20 than—

21 “(A) the average regular rate received by such
22 employee during the last 3 years of the employee’s
23 employment, or

24 “(B) the final regular rate received by such em-
25 ployee, whichever is higher.

1 “(6) An employee—

2 “(A) who has accrued compensatory time off
3 authorized to be provided under paragraph (1), and

4 “(B) who has requested the use of such com-
5 pensatory time,

6 shall be permitted by the employee’s employer to use such
7 time within a reasonable period after making the request
8 if the use of the compensatory time does not unduly dis-
9 rupt the operations of the employer.

10 “(7) For purposes of this subsection—

11 “(A) the term ‘overtime compensation’ means
12 the compensation required by subsection (a), and

13 “(B) the terms ‘compensatory time’ and ‘com-
14 pensatory time off’ mean hours during which an em-
15 ployee is not working, which are not counted as
16 hours worked during the applicable workweek or
17 other work period for purposes of overtime com-
18 pensation, and for which the employee is com-
19 pensated at the employee’s regular rate.”.

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